

AMENDED IN ASSEMBLY MAY 13, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1334

Introduced by Assembly Member Blakeslee

February 27, 2009

An act to amend Sections 82039, 86100, 86101, 86103, 86106, 86107, 86108, 86113, and 86117 of, and to add Section 86206 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1334, as amended, Blakeslee. Political Reform Act of 1974: agents of foreign principals.

The Political Reform Act of 1974 provides for the comprehensive regulation of lobbyists, as defined. Among its provisions, the act requires a lobbyist to prepare a certification and periodic expenditure and contribution reports, containing specified information, to be filed with the Secretary of State. The act also contains various proscriptions regarding lobbyists giving gifts and engaging in other specified activities that may unduly influence governmental functions.

This bill would expand the definition of “lobbyist” to include an individual who acts as an agent or representative of a foreign principal, as defined, and who communicates with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action. This bill would require those individuals to register by filing a certification with the Secretary of State and to file periodic expenditure and contribution reports with the Secretary of State. This bill would also make those individuals subject

to all of the act's existing proscriptions regarding gift giving and engaging in other prohibited activities. In addition, this bill would provide that if a lobbyist who is an agent of a foreign principal violates any of the act's requirements or proscriptions, all representatives of that foreign principal shall be prohibited from entering the State Capitol Building and all other legislative offices for the balance of the legislative session during which the violation occurred.

Existing law makes a willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties.

This bill would impose a state-mandated local program by creating additional crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that there is
- 2 a solemn obligation to protect and preserve the sovereignty of the
- 3 Legislature to act solely in the interests of the people of California,
- 4 and to ensure that the state government and the people of California
- 5 are informed of the source of information and the identity of
- 6 persons attempting to influence public opinion, policy, and laws,
- 7 and to further ensure that foreign special interests are permitted
- 8 no greater influence than any other interest advocating for or
- 9 against any measure or proposal before the Legislature.
- 10 SEC. 2. Section 82039 of the Government Code is amended
- 11 to read:
- 12 82039. (a) "Lobbyist" means either of the following:
- 13 (1) An individual who receives two thousand dollars (\$2,000)
- 14 or more in economic consideration in a calendar month, other than

1 reimbursement for reasonable travel expenses, or whose principal
2 duties as an employee are, to communicate directly or through his
3 or her agents with any elective state official, agency official, or
4 legislative official for the purpose of influencing legislative or
5 administrative action.

6 (2) An individual who acts as an agent, representative, employee,
7 or servant, or an individual who acts in any other capacity at the
8 order, request, or under the direction or control, of a foreign
9 principal or of a person any of whose activities are directly or
10 indirectly supervised, directed, controlled, financed, or subsidized
11 in whole or in major part by a foreign principal, and who
12 communicates directly or through his or her agents with any
13 elective state official, agency official, or legislative official for the
14 purpose of influencing legislative or administrative action.

15 (b) For the purposes of subdivision (a), a proceeding before the
16 Public Utilities Commission constitutes “administrative action” if
17 it meets any of the definitions set forth in subdivision (b) or (c) of
18 Section 82002. However, a communication made for the purpose
19 of influencing this type of Public Utilities Commission proceeding
20 is not within subdivision (a) if the communication is made at a
21 public hearing, public workshop or other public forum that is part
22 of the proceeding, or if the communication is included in the
23 official record of the proceeding.

24 (c) For the purposes of subdivision (a), “foreign principal”
25 means ~~any of the following~~:

26 ~~(1) A government of a foreign country.~~

27 ~~(2) A foreign political party.~~

28 ~~(3) A person outside the United States, unless it is established~~
29 ~~that the person is an individual and a citizen of and domiciled~~
30 ~~within the United States, or that the person is not an individual~~
31 ~~and is organized under or created by the laws of the United States~~
32 ~~or of any state or other place subject to the jurisdiction of the~~
33 ~~United States and has its principal place of business within the~~
34 ~~United States.~~

35 ~~(4) A partnership, association, corporation, organization, or~~
36 ~~other combination of persons organized under the laws of or having~~
37 ~~its principal place of business in a foreign country. a government~~
38 ~~of a foreign country or a foreign political party.~~

39 (d) An individual is not a lobbyist by reason of activities
40 described in Section 86300.

1 SEC. 3. Section 86100 of the Government Code is amended
2 to read:

3 86100. (a) (1) Individual lobbyists as defined in paragraph
4 (1) of subdivision (a) of Section 82039 shall prepare lobbyist
5 certifications pursuant to Section 86103 for filing with the
6 Secretary of State as part of the registration of the lobbying firm
7 in which the lobbyist is a partner, owner, officer, or employee or
8 as part of the registration of the lobbyist employer by which the
9 lobbyist is employed.

10 (2) Individual lobbyists as defined in paragraph (2) of
11 subdivision (a) of Section 82039 shall prepare lobbyist
12 certifications pursuant to Section 86103 and shall register by filing
13 the certifications directly with the Secretary of State.

14 (b) Lobbying firms shall register with the Secretary of State.

15 (c) Lobbyist employers as defined in subdivision (a) of Section
16 82039.5 shall register with the Secretary of State.

17 (d) Lobbyist employers as defined in subdivision (b) of Section
18 82039.5 and persons described in subdivision (b) of Section 86115
19 are not required to register with the Secretary of State but shall
20 file statements pursuant to this article.

21 SEC. 4. Section 86101 of the Government Code is amended
22 to read:

23 86101. Every lobbying firm and lobbyist employer who is
24 required to file a registration statement under this chapter, and
25 every lobbyist as defined in paragraph (2) of subdivision (a) of
26 Section 82039 who is required under this chapter to register by
27 filing a lobbyist certification, shall register with the Secretary of
28 State no later than 10 days after qualifying as a lobbyist, lobbying
29 firm, or lobbyist employer.

30 SEC. 5. Section 86103 of the Government Code is amended
31 to read:

32 86103. A lobbyist certification shall include all of the
33 following:

34 (a) A recent photograph of the lobbyist, the size of which shall
35 be prescribed by the Secretary of State.

36 (b) The full name, business address, and telephone number of
37 the lobbyist.

38 (c) A statement that the lobbyist has read and understands the
39 prohibitions contained in Sections 86203 and 86205.

(d) (1) In the case of a lobbyist who filed a completed lobbyist certification in connection with the last regular session of the Legislature, a statement that the lobbyist has completed, within the previous 12 months or will complete no later than June 30 of the following year, the course described in subdivision (b) of Section 8956. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year, the certification shall be accepted on a conditional basis. Thereafter, if the lobbyist completes the course no later than June 30 of the following year, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year and the lobbyist fails to do so, the conditional lobbyist certification shall be void and the individual shall not act as a lobbyist pursuant to this title until he or she has completed the course and filed with the Secretary of State a lobbyist certification stating that he or she has completed the course and the date of completion. It shall be a violation of this section for any individual to act as a lobbyist pursuant to this title once his or her conditional certification is void.

(2) If, in the case of a new lobbyist certification, the lobbyist has not completed the course within the previous 12 months, the lobbyist certification shall include a statement that the lobbyist will complete a scheduled course within 12 months, and the lobbyist certification shall be accepted on a conditional basis. Following the lobbyist's completion of the ethics course, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the new lobbyist certification states that the lobbyist will complete the course within 12 months and the lobbyist fails to do so, the conditional lobbyist certification shall be void and the individual shall not act as a lobbyist pursuant to this title until he or she has completed the course and filed with the Secretary of State a lobbyist certification stating he or she has completed the course and the date of completion. It shall be a violation of this section for any individual to act as a lobbyist pursuant to this title once his or her conditional certification is void.

1 (e) In the case of a lobbyist as defined in paragraph (2) of
2 subdivision (a) of Section 82039, all of the following:

3 (1) Information sufficient to determine the identity, nature, and
4 interests of the foreign principal that the lobbyist represents.

5 (2) A list of the state agencies whose legislative or administrative
6 actions the lobbyist will attempt to influence.

7 (f) Any other information required by the commission consistent
8 with the purposes and provisions of this chapter.

9 SEC. 6. Section 86106 of the Government Code is amended
10 to read:

11 86106. (a) Each registered lobbying firm and lobbyist employer
12 that will be conducting activities that require registration shall
13 renew its registration by filing photographs of its lobbyists,
14 authorizations, and a registration statement between November 1
15 and December 31 of each even-numbered year. Each lobbyist as
16 defined in paragraph (1) of subdivision (a) of Section 82039 shall
17 renew his or her lobbyist certification in connection with the
18 renewal of registration by the lobbyist's lobbying firm or employer.

19 (b) Each registered lobbyist as defined in paragraph (2) of
20 subdivision (a) of Section 82039 who will be conducting activities
21 that require registration shall renew his or her registration by filing
22 a lobbyist certification between November 1 and December 31 of
23 each even-numbered year.

24 SEC. 7. Section 86107 of the Government Code is amended
25 to read:

26 86107. (a) If any change occurs in any of the information
27 contained in a registration statement, an appropriate amendment
28 shall be filed with the Secretary of State within 20 days after the
29 change. However, if the change includes the name of a person by
30 whom a lobbying firm is retained, the registration statement of the
31 lobbying firm shall be amended and filed to show that change prior
32 to the lobbying firm's attempting to influence any legislative or
33 administrative action on behalf of that person. Lobbying firms and
34 lobbyist employers which, during a regular session of the
35 Legislature, cease all activity which required registration shall file
36 a notice of termination within 20 days after such cessation.
37 Lobbying firms and lobbyist employers which at the close of a
38 regular session of the Legislature cease all activity which required
39 registration, shall not be required to file a notice of termination.

(b) If any change occurs in any of the information contained in a lobbyist certification or if the lobbyist terminates all activity which required the certification, the lobbyist shall submit an amended certification or notice of termination to his or her lobbying firm or lobbyist employer for filing with the Secretary of State within the time limits specified in subdivision (a) or, in the case of a lobbyist as defined in paragraph (2) of subdivision (a) of Section 82039, the lobbyist shall file the amended certification or notice of termination directly with the Secretary of State within the time limits specified in subdivision (a). A lobbyist who at the close of a regular session of the Legislature ceases all activity which required certification, shall not be required to file a notice of termination.

(c) Lobbyists and lobbying firms shall remain subject to Section 86203 for the earlier of six months after filing a notice of termination or six months after the close of a regular session of the Legislature at the close of which the lobbyist or lobbying firm ceased all activity which required certification or registration.

SEC. 8. Section 86108 of the Government Code is amended to read:

86108. All information listed on any registration statement or, in the case of a lobbyist as defined in paragraph (2) of subdivision (a) of Section 82039, on any certification and on any amendment, renewal, or notice of termination shall be printed by the Secretary of State and made public within 30 days after filing.

SEC. 9. Section 86113 of the Government Code is amended to read:

86113. (a) A lobbyist shall complete and verify a periodic report which contains:

(1) A report of all activity expenses by the lobbyist during the reporting period; and

(2) A report of all contributions of one hundred dollars (\$100) or more made or delivered by the lobbyist to any elected state officer or state candidate during the reporting period.

(b) (1) A lobbyist as defined in paragraph (1) of subdivision (a) of Section 82039 shall provide the original of his or her periodic report to his or her lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter.

1 (2) A lobbyist as defined in paragraph (2) of subdivision (a) of
2 Section 82039 shall file the original of his or her periodic report
3 directly with the Secretary of State.

4 SEC. 10. Section 86117 of the Government Code is amended
5 to read:

6 86117. (a) Reports required by paragraph (2) of subdivision
7 (b) of Section 86113 and by Sections 86114 and 86116 shall be
8 filed during the month following each calendar quarter. The period
9 covered shall be from the first day of January of each new biennial
10 legislative session through the last day of the calendar quarter prior
11 to the month during which the report is filed, except as specified
12 in subdivision (b), and except that the period covered shall not
13 include any information reported in previous reports filed by the
14 same person. When total amounts are required to be reported, totals
15 shall be stated both for the period covered by the statement and
16 for the entire legislative session to date.

17 (b) The period covered by the first report a person is required
18 to file pursuant to paragraph (2) of subdivision (b) of Section 86113
19 or pursuant to Sections 86114 and 86116 shall begin with the first
20 day of the calendar quarter in which the filer first registered or
21 qualified. On the first report a person is required to file, the total
22 amount shall be stated for the entire calendar quarter covered by
23 the first report.

24 SEC. 11. Section 86206 is added to the Government Code, to
25 read:

26 86206. (a) If a lobbyist as defined in paragraph (2) of
27 subdivision (a) of Section 82039 is found in violation of this
28 chapter, that lobbyist and all other representatives of the foreign
29 principal represented by the lobbyist shall be prohibited from
30 entering the State Capitol Building and all other legislative offices
31 for the balance of the legislative session during which the violation
32 occurred.

33 (b) If the representatives of a foreign principal are prohibited
34 from entering the State Capitol Building and other legislative
35 offices pursuant to subdivision (a), the Secretary of State shall
36 notify the President pro Tempore of the Senate, the Speaker of the
37 Assembly, the Minority Floor Leader of the Senate, the Minority
38 Floor Leader of the Assembly, the Sergeant at Arms of the Senate,
39 and the Sergeant at Arms of the Assembly.

1 SEC. 12. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

10 SEC. 13. The Legislature finds and declares that this bill
11 furthers the purposes of the Political Reform Act of 1974 within
12 the meaning of subdivision (a) of Section 81012 of the Government
13 Code.

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